

July 31, 2023

The Honorable Chief Judge Alan Trust
Courtroom 960
United States Bankruptcy Court
Eastern District of New York
Alfonse M. D'Amato Federal Courthouse
290 Federal Plaza
Central Islip, New York 11722

Re: *In re Brickchurch Enters., Inc., Chapter 11 Case No. 8-22-70914-ast (the “Chapter 11 Case”); Joint Letter of the Debtor and Bay Point Capital Advisors, LP Regarding Status of Negotiations*

Dear Judge Trust,

Brickchurch Enterprises, Inc. (the “**Debtor**”)¹, debtor and debtor-in-possession in the above-captioned chapter 11 case (the “**Bankruptcy Case**”), and the DIP Lender², Bay Point Capital Partners II, LP (“**Bay Point**,” with the Debtor, the “**Parties**”), hereby respectfully submit this joint letter (the “**Joint Letter**”) regarding the terms of a plan of liquidation (the “**Proposed Plan**”) to be proposed in the Bankruptcy Case.

Consistent with the Court’s prior instruction, the following is a summary of the Proposed Plan’s terms, including how the Proposed Plan will treat any administrative expense claims of the Internal Revenue Service (the “**IRS**”):

- Bay Point, as the successor in interest to JGB pursuant to the Assignment set forth in the DIP Order, will notice the state court foreclosure sale (the “**Aberdeen Foreclosure Sale**”)

¹ On July 19, 2023, Bay Point filed the *Notice of (I) New Shareholder of Record of Debtor’s Equity Interests; and (II) Replacement of Officers and Directors* (the “**Change of Control Notice**”) [Dkt. No. 278]. In the Change of Control Notice, Bay Point communicated to the Court that the Debtor’s current officers and directors were removed and replaced by Charles Andros, who had been appointed sole officer and director of the Debtor. Accordingly, it is Bay Point’s position that Charles Andros has the authority to make all major decisions on behalf of the Debtor. The Proposed Plan terms set forth herein have been approved via Mr. Andros via the authority explained in the Change of Control Notice.

Mr. Andros is also the President of Bay Point Advisors LLC, the general partner of Bay Point. Mr. Andros will be seeking, on behalf of Debtor, to retain an independent, third-party chief restructuring officer that can advise the Debtor during the Proposed Plan and sale process.

Louise Blouin and Mathew Kabatoff, the former officer and director of Debtor, have not approved the terms of this Joint Letter. Ms. Blouin and/or Mr. Kabatoff dispute their respective replacement as officer and director of Debtor.

The undersigned counsel to the Debtor, by signing this letter, does not take a legal position nor assert a legal conclusion regarding who is in control of the Debtor. Further, Debtor’s undersigned counsel, by signing this letter, does not acknowledge that Debtor’s undersigned counsel has agreed to the terms provided *infra* on behalf of the Debtor. Debtor’s counsel has communicated to counsel for Bay Point that the Parties should request an order from the Court to clarify the control issue. Bay Point is currently preparing the necessary filing to bring this issue before the Court for decision

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Order (i) Authorizing Debtor to Obtain Post-Petition Secured Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, and 364, and (ii) Granting Liens and Super-Priority Claims (the “**Dip Financing Order**”).

of the real property commonly known as 376 Gin Lane, Southampton, New York 11968, which is owned by Debtor's non-Debtor affiliate Aberdeen Enterprises, Inc. (the "**Aberdeen Property**");

- Bay Point believes that it will be able to hold the Aberdeen Foreclosure Sale on or before October 5, 2023 – and perhaps as early as September 12, 2023;
- Bay Point intends to submit a credit bid of some or all of its DIP Loan debt, the amount of such bid being in Bay Point's sole and absolute discretion, in the Aberdeen Foreclosure Sale and, assuming that Bay Point's bid is the highest and best bid therein, will obtain the right to close on a sale of the Aberdeen Property (the "**Closing Rights**");
- Debtor intends to then undertake a marketing and sale process of the real property commonly known as 366 Gin Lane, Southampton, New York 11968 (the "**Brickchurch Property**");
- As part of the marketing process of the Brickchurch Property, Bay Point intends to offer the Closing Rights for sale, which the Parties believe will provide synergy value for the Brickchurch Property and result in the maximum possible return for Debtor's creditors and equity holder;
- To be clear, potential purchasers will be permitted to submit bids for the Brickchurch Property regardless of whether they choose to also submit a bid for the Closing Rights (i.e., no potential bidder will be excluded because they do not submit a bid for the Closing Rights);
- Debtor will retain the right to sell the Brickchurch Property or the Closing Rights through a private sale, subject to approval by this Court, if Debtor believes that such private sale maximizes the value of the Brickchurch Property or the Closing Rights;
- If Debtor does not seek consummation of a private sale, Debtor will hold an auction for the Brickchurch Property and/or Closing Rights on or around November 16, 2023;
- The IRS and all other creditors will receive payment from the sale proceeds allocable to the Brickchurch Property in the order of priority as set forth in the Bankruptcy Code;
- The Parties believe that, based upon prior appraisals, that the above-referenced sale process will generate sale proceeds sufficient to pay (i) the capital gains tax associated with the sale of the Brickchurch Property (if any); (ii) fund an escrow account in the full amount of the disputed Section 507(a)(8) priority tax claims; and (iii) pay non-insider unsecured claims (if any) in full; and
- One or more of the Parties may seek to reclassify the insider general unsecured claims identified in Debtor's schedules.

The Parties believe that the Proposed Plan, as outlined herein, is confirmable under Section 1129 of the Bankruptcy Code and will provide for the greatest potential return to Debtor's creditors and equity holders.

Respectfully submitted,

SIMMONS LEGAL PLLC

/s/ Camisha L. Simmons

Camisha L. Simmons
Simmons Legal PLLC
1330 Avenue of the Americas, Suite 23A
New York, New York 10019
P: 212.653.0667 / F: 800.698.9913
Camisha@SimmonsLegal.Solutions

Counsel for Brickchurch Enterprises, Inc.

Respectfully submitted,

THOMPSON HINE LLP

/s/ John C. Allerding

John C. Allerding
Thompson Hine LLP
3560 Lenox Road NE, Suite 1600
Atlanta, Georgia 30326-4266
P: 404.407.3676 / F: 404.541.2905
John.Allerding@ThompsonHine.com

Counsel for Bay Point Capital Partners II, LP